



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Ecology AO# 15-01

- ☒ **Preproposal Statement of Inquiry was filed as WSR 15-07-014; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

- ☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject) Ecology is proposing to revise Chapter 173-351 WAC - *Criteria for Municipal Solid Waste Landfills* - by adding two hazardous organic constituents to Appendix III of WAC 173-351-990: 2,3,7,8-Tetrachlorodibenzo- p-dioxin - [CAS 1746-01-6] and alpha, alpha-Dimethylphenethylamine [CAS 122-09-8].

Hearing location(s):

Washington State Department of Ecology
 300 Desmond Dr SE
 Lacey, WA 98503

Date: August 27, 2015 Time: 3:00 PM

Date of intended adoption: September 22, 2015
 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Kyle Dorsey
 Address: PO Box 47600
 Olympia, WA 98504
 e-mail kyle.dorsey@ecy.wa.gov
 fax (360)407-6102 by (date) September 8, 2015

Assistance for persons with disabilities:

Contact the Waste 2 Resources Program by August 25, 2015.
 TTY (877) 833-6341 or (360) 407-6900. Persons with impaired hearing may call Washington Relay Service at 711.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Revising Chapter 173-351 WAC will clarify requirements for landfill operators, and enable Ecology to obtain full approval of our municipal solid waste rules from the U.S. Environmental Protection Agency (EPA).

This revision is necessary to be consistent with federal rules in 40 CFR Part 258. Operators of municipal solid waste landfills must meet federal program requirements. Revising our rule eliminates possible noncompliance for facilities that inadvertently omit the two additional constituents required by federal rules. It also clarifies monitoring requirements for local jurisdictional health authorities that have the lead for issuing and enforcing solid waste permits.

Ecology's municipal solid waste landfill program operates under partial approval from EPA. The addition of these two constituents will allow EPA to make a Determination of Full Program Adequacy. In turn, EPA will be able to approve the *Research, Development and Demonstration* (RD&D) element that is part of our current state program.

Reasons supporting proposal: The United States Environmental Protection Agency (EPA) specifies criteria for municipal solid waste landfills under 40 CFR Part 258. The state program is currently partially approved by EPA under 40 CFR Part 239. The only identified barrier to full program approval of the state program is the lack of the two constituents identified in this rule proposal. EPA has said they will move forward with full program approval if Ecology shows a commitment to make the changes in state rules proposed under this rulemaking. We have been coordinating with EPA, and legal counsel for both agencies have been involved. Local jurisdictional health authorities issue solid waste permits subject to Ecology review. Local permits must at least meet state program requirements. Ecology has a communication strategy for this rulemaking that includes outreach to all municipal solid waste landfill operators, health jurisdictions, and impacted and interested parties.

Statutory authority for adoption: RCW 70.95.020 and RCW 70.95.060

Statute being implemented: Chapter 70.95 RCW

Is rule necessary because of a:

Federal Law? ☒ Yes ☐ No
 Federal Court Decision? ☐ Yes ☐ No
 State Court Decision? ☐ Yes ☐ No
 If yes, CITATION:
 40 CFR Part 258 – Criteria for Municipal
 Solid Waste Landfills

DATE 7/15/15

NAME (type or print)
 Polly Zehm

SIGNATURE

Polly Zehm

TITLE
 Deputy Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: July 16, 2015

TIME: 10:32 AM

WSR 15-15-108

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Chapter 173-351 WAC establishes state requirements for the design and operation of municipal solid waste landfills. Applicable requirements are implemented through permits issued by local jurisdictional health authorities who serve as the first and primary agencies to implement and enforce the rules. The Department of Ecology provides technical assistance and reviews permits issued by local health authorities.

Name of proponent: (person or organization) Washington State Department of Ecology

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Kyle Dorsey	Lacey, WA	(360) 407-6559
Implementation.... Wayne Krafft	Spokane, WA	(509) 329-3438
Enforcement.....Laurie G. Davies	Lacey, WA	(360) 407-6103

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☒ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Kirsten Miller

Address: Washington State Department of Ecology

Waste 2 Resources Program

PO Box 47600

Olympia, WA 98504-7600

phone (360) 407-6707

fax (360)407-6102

e-mail kirsten.miller@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kirsten Miller

Address: Washington State Department of Ecology

Waste 2 Resources Program

PO Box 47600

Olympia, WA 98504-7600

phone (360) 407-6707

fax (360)407-6102

e-mail kirsten.miller@ecy.wa.gov

☐ No: Please explain: